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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,291	12/28/2001	Yusuke Nakazono	03560.002971.	3111

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FITZPATRICK CELLA HARPER & SCINTO  
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NEW YORK, NY 10112

EXAMINER
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RUDOLPH, VINCENT M

ART UNIT	PAPER NUMBER
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2625

MAIL DATE	DELIVERY MODE
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02/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/029,291	<b>Applicant(s)</b> NAKAZONO ET AL.	
	<b>Examiner</b> Vincent Rudolph	<b>Art Unit</b> 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 40,41,44,50,51,54,60,64 and 65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40,41,44,50,51,54,60,64 and 65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 40-41, 44, 50-51, 54, 60 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirst ('553) in view of Baldwin ('195).

Regarding claim 40, Hirst ('553) discloses a software distributing system (over the internet, **See Col. 6, Line 17-20**, to the host device and printer, **See Figure 1**) for distributing control software (software in the image forming device, **See Col. 5, Line 19-22**) used by an image forming apparatus to an external apparatus, which is an information processing apparatus connected with the image forming apparatus, over a network (**See Figure 1**, as well as providing an internet link to the host device, **See Col. 6, Line 17-20**), such that the system includes a receiving unit (embodied within host device, **See Figure 1, Element 20**) for receiving, from the external apparatus, production lot information of a consumable unit (manufacture date, **See Figure 2, Element 19a**) and operation information indicating a number of prints output at the image forming apparatus (the printer driver within the host device receives the manufacture date as well as the status, **See Figure 2, Element 19b**, such as number of pages that the current consumable has printed, **See Col. 5, Line 1-12**) such that the consumable unit is detachably located in the image forming apparatus (**See Figure 1,**

**Element 18**) and includes multiple hardware parts for forming an image to a recording medium (the laser printer, **See Col. 4, Line 16-18**, includes multiple consumable devices within it, **See Col. 1, Line 49-56**) and a memory (**See Figure 1, Element 19**) for storing the production lot information of the consumable unit (**See Figure 2**) such that the production lot information is an identifier (**See Figure 2, Element 19a**) that differs according to differences in the production conditions, which are based on a material and the production environment (paper types and other usage information pertinent to the printing process, **See Col. 5, Line 16-19**), of the consumable unit (stores the identification and model number of the consumable unit as well as data such as the number of printed pages, amount of toner remaining, etc., **See Figure 2; Col. 5, Line 7-13**), a selecting unit (embodied within the host device) that is configured to select the control software based on the production lot information and the operation information received in order for a controller unit (embodied within the host device) to distribute the control software selected to the external apparatus through the network (extracts information from the consumable, **See Col. 5, Line 3-6**, in order to provide software updates to it, **See Col. 5, Line 19-21**, such that the updated information is received over the internet, **See Figure 5-6, Col. 6, Line 17-20**) and the distributed control software is used for updating the image forming apparatus by the external apparatus (updates for the printer to allow device features to be added and altered and software bugs to be fixed, **See Col. 2, Line 43-47**).

Hirst ('553) does not disclose selecting the necessary control software for distribution from a plurality of control software depending upon whether the operation

information indicates an amount exceeding a first predetermined amount or a second predetermined amount which exceeds the first predetermined amount as well as updating the image forming apparatus is performed based on whether or not a print job of the image forming apparatus is in execution.

Baldwin ('195) discloses selecting the necessary control software for distribution from multiple control software (multiple printer software and firmware that is located in the printer software database, **See Figure 1, Element 38**, and used to select the appropriate software and firmware for the individual printer, **See Col. 4, Line 50-54**) based on whether the operation information indicates an amount exceeding a predetermined amount (maintenance information is received from the printer, such as the incremental number of pages printed, and by using this information, the appropriate firmware and/or software upgrades are downloaded to the printer, **See Col. 5, Line 11-20**), and updating the image forming apparatus is performed based on whether or not a print job of the image forming apparatus is in execution (the update is not performed when a print job is in execution, but rather since the printer requires servicing , **See Col. 5, Line 4-7**).

It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to include selecting the appropriate software as well as updating the printer when required, such as the one disclosed within Baldwin ('195) and incorporate it into the software distributing system of Hirst ('553) because it allows the printer to transfer the information it stores in order to select and distribute the proper

software and/or firmware selection to improve its functionality and by updating the printer, it allows the printer to receive the service maintenance it requires.

Regarding claim 41, Hirst ('553) discloses that the production lot information of the consumable unit is based on a combination of the production lot information of the consumable hardware parts (the consumable as well as the controller, which modulates the laser for photoconductor exposure, **See Col. 4, Line 34-37**, and formatter are used in the process of receiving software updates for the printer, **See Figure 4-5; Col. 5, Line 20-22**).

Regarding claim 44, Hirst ('553) disclose the external apparatus is a computer connected with the image forming apparatus (**See Figure 1**).

Regarding claim 64, Hirst ('553) discloses that the consumable unit is a process cartridge (**See Col. 4, Line 47-48**) and the consumable hard part includes a photoconductor (**See Col. 1, Line 49-56**).

Regarding claims 50-51, 54 and 65, the rationale provided in the rejection of claims 40-41, 44 and 64 is incorporated herein. In addition, the system of claims 40-41, 44 and 64 corresponds to the method of claims 50-51, 54 and 65 and performs the steps disclosed herein.

Regarding claims 60, Hirst ('553) discloses a computer-executable program that is stored on a computer-readable medium for a computer to execute the information processing method (the printer driver software within the host device, **See Figure 1; Col. 5, Line 1-3**).

***Response to Arguments***

Applicant's arguments with respect to the entered claims in the After Final have been considered but are moot in view of the new grounds of rejection based off the newly discovered prior art of Baldwin. Thus, the combined prior arts of Hirst and Baldwin together do meet the limitations of the claims as disclosed within the rejection above.

Based on these facts as well as having the applicant's arguments been fully considered and persuasive, **THIS ACTION IS MADE NON-FINAL.**

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent Rudolph whose telephone number is (571) 272-8243. The examiner can normally be reached on Monday through Friday 8 A.M. - 4:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vincent Rudolph  
Examiner  
Art Unit 2625

/Vincent Rudolph/  
Acting Examiner of Art Unit 2625

/David K Moore/  
Supervisory Patent Examiner, Art Unit 2625